



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

March 23, 1983

You inquire about the Massachusetts sales and use tax treatment of conditional sales of tangible personal property.

General Laws Chapter 64H, Section 1(12) defines "sale" for sales and use tax purposes as including:

"(a) Any transfer of title or possession, or both, ...conditional or otherwise, of tangible personal property for a consideration, in any manner or by any means whatsoever.

/and/

(d) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price."

Chapter 64H, Section 1(14) defines "sales price" as the total amount paid by a purchaser to a vendor as consideration for a retail sale, valued in money or otherwise, and declares that any amount for which credit is given to the purchaser by the vendor must be included in determining the sales price.

Therefore, a vendor of tangible personal property must include the total sales price for every conditional sale made during a given period in his taxable gross receipts for that period, regardless of the amount of payment actually received. The sales price includes the amount for which credit is

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extended by the vendor to the purchaser, but does not include separately-stated interest charges set in good faith.

You also inquire whether, in a conditional sale, the tax exemption of a purchaser passes through to the seller.

Exemptions from the sales and use taxes apply to conditional sales as they apply to any other sales. For example, a vendor who makes a conditional sale of tangible personal property to a charitable organization may give a resale certificate in lieu of paying a tax on his purchase of the property; the vendor's sale of the property to the organization will be exempt if the sale meets the requirements set forth in Chapter 64H, Section 6(e).

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lisa O. Jackson". The signature is written in a cursive style with a large, looped initial "L".

Commissioner of Revenue

IAJ:JXD:mf

LR 83-18